

V. Remarks**A. Objection to Replacement Drawings**

The Examiner objects to the drawings for not showing fiber cement or wood representations. Applicant submits that use of these material representations is not necessary to fully illustrate the invention. Nonetheless, in an effort to advance prosecution of this application, new FIGS. 4A and 4B are added showing the wood and fiber cement features. No new matter is added by these new figures. The description of the drawings has also been amended to reflect the addition of these figures.

B. Rejection under 35 U.S.C. § 103

The Action rejects claims 1-13, 15-17, 19 and 22-30 as being obvious from newly cited U.S. Patent No. 5,465,547 to Jackel. Reconsideration and withdrawal of this rejection are respectfully requested in view of the foregoing amendments and the following arguments.

1. Claims 1-8

Independent claim 1 is directed to a rectangular siding panel. The rectangular siding panel has front and rear faces and a pair of side faces. The panel has a thickened portion proximate a top end of said panel forming a protruding first area in the rear face. Claim 1 has been amended to recite that the protruding first area has “a continuous planar first face extending between the side faces that is shaped to sit substantially flush with a portion of a vertical wall . . .” The Examiner asserts that tile 50 disclosed in Jackel has a thickened portion at a top end 54 thereof. FIG. 3B shows the underside of the tile 50. As shown in FIG. 3B, the tile 50 has a large hollow cavity 70 at its upper end. The tile does not have a protruding first area that forms a “continuous planar first face extending between the side faces.” Because of the hollow large cavity, the tile 50 cannot make continuous flush contact with the structure’s surface across the length of the tile 50. Therefore, in contrast to the present invention, and more like the prior art described in the Background of the Invention section of the present application, when a nail is driven through the tile 50 in the cavity area 70, that nail must pass through an air gap before

entering the structure. This gap between the rear surface and the structure can lead to burst fractures in the rear surface of the tile, like a bullet exiting an object in free space. This, in turn, can lead to additional stress cracks and fractures, expose the tile to water damage, weaken the holding strength of the fasteners and generally reduce the product life of the product.

In the panel claimed in amended claim 1, the protruding area forms a continuous planar first face extending between the side faces that is shaped to sit substantially flush with the portion of the vertical wall to which the panel is attached. Because the planar face is continuous, there is substantially continuous contact along the longitudinal length of the panel (i.e., from side to side). Therefore, fasteners (such as nails) can be driven through any portion of the protruding area directly into the wall without encountering a problematic air gap as described above.

It is submitted that Jackel's tile 50 does not teach at least this continuously planar face feature. Jackel's embodiment shown in FIGS. 6-12 also does not teach this feature. This is evident from, for example, the bottom view of FIG. 6 and by comparing the side cross-sectional view of FIG. 11 with the side view shown in FIG. 10. It is important to note that FIG. 12 is an edge view of the installed modified tile 150, which also includes the hollow shallow cavities of FIG. 6. (Col. 7, lines 3-30). The Examiner has conceded that this view does not show a "thickened" portion and this view cannot show a "continuous planar first face extending between the side faces."

Therefore, it is submitted that claim 1 is not obvious from Jackel and is allowable thereover.

Claims 2-8 depend from claim 1 and are, therefore, allowable for at least the reasons set forth above in connection with claim 1.

Dependent claim 4 has been amended to recite that the first area of the siding panel includes "a reinforced area comprising a mesh, scrim, fabric or panel reinforcement." The reinforcement provides additional structural integrity to the panel in the area where the fasteners

are driven through the panel. It is submitted that Jackel does not disclose or suggest a mesh, scrim, fabric or panel reinforcement. For at least these additional reasons, it is submitted that claim 4 is independently allowable over the cited reference.

Dependent claim 5 has been amended to recite that the “planar second face” referred to in claim 1 as extending from the bottom end of the panel to near to the first area is “a continuously planar face extending between the side faces.” As discussed above in connection with claim 1, FIG. 3B shows the underside of the tile 50 of Jackel, which includes cavities 70, 71, and 72 formed therein. Jackel’s tile does not include a planar second face that is a continuously planar face as claimed in claim 5. For at least these additional reasons, it is submitted that claim 5 is independently allowable over the cited reference.

Dependent claim 8 depends from claim 4 and has been amended to correct “assembly” to “siding panel.” Claim 8 has also been amended to recite that the “siding panel is formed from fiber cement and said reinforcement is embedded within or laminated to said siding panel.” Claim 8 is allowable for at least the reasons set forth above in connection with claims 1 and 4.

2. Claims 9-24, 15-16

Independent Claim 9 is directed to a siding panel assembly. The assembly includes at least first and second siding panels attached to a vertical wall of a structure. Claim 9 has been amended to recite that the siding panels have a pair of side faces and to recite that “the reinforced area includes a continuous planar first face that contacts said portion of said vertical wall and extends between said side faces. It is submitted for the reasons discussed above in connection with claim 1 that Jackel does not teach this feature. Claim 9, therefore, is not obvious from and is allowable over the cited reference.

Claims 10-13 and 15-16 depend from claim 9 and are, therefore, also allowable for at least the reasons set forth above in connection with claim 9.

Still further, dependent claim 10 has been amended to recite that the reinforced area comprises an embedded or laminated mesh, scrim, fabric or panel reinforcement. It is submitted that Jackel does not teach this feature. Therefore, claim 10 is independently allowable over the cited reference for at least this additional reason.

Claims 15 and 16 have been amended consistent with amendments made to claim 9.

3. Claims 17, 19 and 22-24

Independent claim 17 is directed to a method of installing a siding panel assembly on a structure. Claim 17 has been amended to recite that the siding panels each have a pair of side faces. Claim 17 has also been amended to recite that the "first area" of the first siding panel "includes a continuous planar first face that contacts said portion of said vertical wall and extends between said side faces" and further that the series of nails is driven "through said continuous planar first face" and into the vertical wall.

As discussed above in connection with claims 1 and 9, Jackel does not teach or suggest a panel having a first area including "a continuous planar first face that contacts said portion of said vertical wall and extends between said side faces." For at least these reasons, it is submitted that the installation method of claim 17 is not obvious from and is allowable over Jackel.

Claims 19 and 22-24 depend from claim 17 and are, therefore, allowable for at least the reasons set forth above in connection with claim 17.

4. Claims 25-26, 30

Claim 25 is directed to a rectangular shaped clapboard siding panel having a protruding area proximate to a top end of the rear face shaped such that at least a portion of the area sits substantially flush with a portion of a vertical wall when the siding panel is secured to the vertical wall and angled to overlap a least a portion of a second siding panel. Claim 25 has been amended to replace "protruding portion" with the more generic "first area." Claim 25 has also been amended to recite that the first area includes "an embedded or laminated reinforcement

layer.” Jackel does not teach an embedded or laminated reinforcement layer. Polymer or cellulose fibers that are randomly dispersed in the body of the tile 50 of Jackel, which the Examiner cites as “reinforcements” in the Action, do not constitute an embedded or laminated reinforcement “layer.” For at least these reasons, it is submitted that claim 25 is allowable over the cited reference.

Claims 26 and 30 depend from claim 25 and are, therefore, allowable over the cited reference for at least the reasons set forth above in connection with claim 25.

5. Claims 27-29

Claim 27 is directed to a clapboard siding panel having front and rear faces. Amended claim 27 recites that the rear face has a first portion forming an oblique angle with respect to a vertical wall to which the siding panel is affixed and a second portion which is disposed in substantially “continuous” flush contact with the vertical wall “along said longitudinal length” when the siding panel is affixed to the vertical wall.

As discussed above, Jackel does not disclose this continuously planar surface. Therefore, it is submitted that claim 27 is not obvious from and is allowable over the cited reference.

Claims 28 and 29 depend from claim 27 and are, therefore, allowable for at least the reasons set forth above in connection with claim 27.

Claim 28 has been amended to recite that the first portion forms a “continuously” planar surface extending “along said longitudinal length” from the bottom end to a location proximate to the second portion. As also discussed above, Jackel does not disclose a continuously planar portion that extends along the longitudinal length of the panel and from a bottom end to proximate to the planar second portion. For at least these additional reasons, it is submitted that claim 28 is independently allowable over the cited reference.

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Reconsideration and withdrawal of the rejection of the presently pending claims are respectfully requested.

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VI. Conclusion

In view of the foregoing remarks and amendments, Applicant submits that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1679.

Respectfully submitted,

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